



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

75 Hawthorne Street  
San Francisco, CA 94105

June 17, 2005

Bruce Henderson  
U.S. Army Corps of Engineers  
Ventura Field Office  
2151 Alessandro Drive, Suite 255  
Ventura, CA 93001

**Subject:** San Luis Obispo Creek Watershed Waterway Management Plan Programmatic  
Draft Environmental Impact Statement/Environmental Impact Report (Draft  
EIS/EIR) [CEQ # 20050126]

Dear Mr. Henderson:

The Environmental Protection Agency (EPA) has reviewed the document referenced above. Our review and comments are pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1509), and Section 309 of the Clean Air Act.

EPA supports the multi-faceted approach outlined in the waterway management plan to avoid adverse impacts to biological resources, hydrology, and sensitive species and habitats. However, we note the Draft EIS identifies many "unknown" impacts (p.g. I-23) in an area with numerous water quality impairments. We have rated this Draft EIR/EIS as Environmental Concerns - Insufficient Information (EC-2) (see enclosed "Summary of Rating Definitions"). EPA's rating is based on potential impacts to water quality, endangered species and habitat, and the possible presence of asbestos, in addition to an unclear alternatives analysis. To fully protect resources, additional protection measures will be needed in subsequent Environmental Assessments or Environmental Impact Statements for individual project plans that are tiered from this document. The management plan should remain flexible to incorporate these findings to address all impacts.

There is additional information we would like to see in the Programmatic Final EIS. We note that the environmental consequences of the alternatives are unclear and this should be corrected. It is also important to determine if naturally-occurring asbestos exists in the project area and if so, establish an Asbestos Dust Mitigation Plan and Health and Safety Program. In addition, the current enhancement and restoration activities in the area that are being implemented by Non-Profits (p.g. I-30) should be described in more detail, including a description of how the goals of those programs will be incorporated into the goals of watershed management for San Luis Obispo Creek.

We emphasize the importance of demonstrating compliance with federal Clean Water Act and Endangered Species Act policies in the Annual Work Program and adjusting management guidelines to incorporate these policies. National Marine Fisheries and Fish and Wildlife Service recommendations from the associated Biological Opinion should be incorporated in the Programmatic Final EIS.

We appreciate the opportunity to review this Draft EIR/EIS. Please send two copies of the Programmatic Final EIR/EIS to this office when it is officially filed with our Washington, D.C. office. In the meantime, if you have any questions, please call me or Summer Allen, the lead reviewer for this project, at (415) 972-3847.

Sincerely,

/S/  
Nova Blazej, Acting Manager  
Environmental Review Office

MI# 003218

Enclosures:

Summary of Rating Definitions

EPA's Detailed Comments

cc: Jay Walker, City of San Luis Obispo

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EPA DETAILED COMMENTS ON THE PROGRAMMATIC DRAFT ENVIRONMENTAL IMPACT  
STATEMENT FOR THE SAN LUIS OBISPO CREEK WATERWAY MANAGEMENT PLAN

### **Water Quality Impairments**

The San Luis Obispo Creek is impaired for several parameters, including nutrients, pathogens, and priority organics. It is listed as a high priority for Total Maximum Daily Load (TMDL)s on the 2002 Clean Water Act (CWA) Section 303(d) list of water quality limited segments, approved by EPA in July 2003. Much of this is due to agricultural-storm runoff and

municipal point sources. However, the document does not discuss this impairment as part of the affected environment and does not account for increased impacts to this Creek from the proposed action. We also note that the project has the potential to result in water quality impacts from toxic substance release (p.g. VII-30), as well as erosion and sedimentation, turbidity, and hydrologic change (VII-97).

*Recommendations:*

The Programmatic Final Environmental Statement (EIS) should include a detailed discussion of the causes and extent of water quality impairments in San Luis Obispo Creek. These impairments should be included as part of the description of the affected environment, as well as outlined in the discussion of waterway problems and needs. These impairments must be considered when evaluating management alternatives. The Final EIS should identify opportunities to minimize additional impacts to water quality and to improve water quality.

The Final EIS should also determine the percentage of impervious surfaces in the watershed and the percentage of pervious surfaces needed for water quality protection.

The Tier 2 environmental review should identify contaminated sites and mitigate any potential impacts to water quality as a result of this contamination.

**Alternatives Analysis**

\_\_\_\_\_The alternatives comparison in the Draft EIS is unclear. In particular, on page I-35 of the Draft EIS, Alternative 1 is stated to result in additional environmental impacts when compared to the proposed project. However, in the chart on page VIII-2, Alternative 1 results in fewer adverse impacts than the proposed action. In addition, although Alternative 1 would leave more land to be developed at the top of banks, Alternative 1 does not provide development buffers for 100 year storm events. The selected alternative should include buffers that restrict development in the 100 year floodplain.

The document notes that several CWA, Section 404(b)(1) nationwide programmatic permits will be needed for the implementation of the proposed project (p.g. 1). The Guidelines promulgated under CWA Section 404(b)(1) (Guidelines) require that permits for discharges of dredged or fill material into waters of the U.S. authorize only the Least Environmentally Damaging Practicable Alternative (LEDPA). Specifically, regulations at 40 CFR 230.10(a) state that “. . .no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.” A practicable alternative is one “available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purposes.” Alternatives from NEPA documents, including this DEIS, can serve as the basis for the Section 404 alternatives analysis (40 CFR 230.10(a)).

*Recommendations:*

The Final EIS should clearly evaluate the environmental impacts of each alternative in detail.

Discrepancies in the reporting of impacts between Alternative 1 and the proposed alternative should be corrected.

To protect floodplain functions and development, the selected alternative should include buffers that restrict development from the 100 year floodplain.

In order to avoid delay at the CWA 404 permit stage, it is important at this Tier 1 programmatic stage to select alternatives that are most likely to contain the LEDPA. There are currently many “unknown impacts” (p.g. I-23), and additional protection measures will be required in subsequent Environmental Assessments and Environmental Impact Statements. The Final EIS should provide measures of evaluating the effectiveness of the chosen alternative throughout implementation of the project. Future decisions and protection measures should be based on the results of these evaluations.

### **Asbestos**

The California Department of Conservation, Division of Mines and Geology, data shows that southwest portions of the San Luis Obispo Watershed may have ultramafic rock. The “metamorphic conditions of ultramafic rocks are right for the formation of chrysotile asbestos or tremolite-actinolite asbestos in bodies of ultramafic rocks or along their boundaries.”<sup>1</sup>

#### *Recommendation:*

The Final EIS should determine if naturally-occurring asbestos exists in the project area and if so, an Asbestos Dust Mitigation Plan and Health and Safety Program should be established, and described in the Final EIS.

### **Consultation**

We note that there is a potential for cumulative adverse impacts to steelhead salmon and aquatic habitat, as well as spawning gravel and fish passage (Impact 37). The document also notes unavoidable and adverse cumulative impacts to aquatic habitat and riparian habitat (Impact 47). Listed plants are documented in the project area, as are the Federally protected Red-legged frog and Southern Steelhead salmon. In accordance with the Endangered Species Act (ESA), Section 7, consultation with the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration (NOAA Fisheries) regarding the impacts of project activities on listed species is required.

#### *Recommendations:*

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<sup>1</sup> [http://ftp.consrv.ca.gov/pub/dmg/pubs/ofr/ofr\\_2000-019.pdf](http://ftp.consrv.ca.gov/pub/dmg/pubs/ofr/ofr_2000-019.pdf)

The status of ESA Section 7 consultation should be described in the Final EIS and flexibility should be built into the proposed project to allow for compliance with all FWS and NOAA Fisheries recommendations included in resulting Biological Opinions. Additional information regarding the impacts to listed species should be included in the Final EIS, as well as the status of the development of the Biological Opinion. Mitigation should fully replace losses of function(s) and be located in appropriate sites within the watershed. In addition, protective buffer distances between project activities and listed plants should be ensured.

### **Air Quality**

The Draft EIS does not include a discussion of the air basin that the project would impact. We note that the San Luis Obispo Air Pollution Control District has been designated a nonattainment area for the state ozone and PM10 standards (p.g. VI-37).

#### *Recommendations:*

The Final EIS should include information on attainment status of the San Luis Obispo Air Pollution Control District as well as project-related impacts from construction equipment and operation. It should also incorporate construction mitigation measures.